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Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. PT-2007-2045

SHERRY LYNN JAMES
9078 Rawhide Way
Sacramento, CA 95826
Psychiatric Technician License No. PT 26126

A C C U S A T I O N

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

Psychiatric Technician License

2. On or about November 2, 1988, the Board issued Psychiatric Technician License Number PT 26126 to Sherry Lynn James ("Respondent"). The psychiatric technician license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

STATUTORY PROVISIONS

3. Section 4520 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensed psychiatric technician for any reason provided in

Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code § 4500, et. seq.)

4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under Code section 4545, the Board may renew an expired license at any time within four years after the expiration.

5. Code section 4521 states, in pertinent part:

The board may suspend or revoke a license issued under this chapter [the Psychiatric Technicians Law (Bus. & Prof Code, 4500, et seq.)) for any of the following reasons:

(a) Unprofessional conduct, which includes but is not limited to any of the following:

(5) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(6) Be convicted of a criminal offense involving . . . consumption of any of the substances referred to in paragraphs 4 or 5 [controlled substances, dangerous drugs or alcoholic beverage] in which event the record of the conviction is conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

(f) Conviction of any offense substantially related to the qualifications, functions, and duties of a psychiatric technician, in which event the record of the conviction shall be conclusive evidence of the conviction. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

6. Code section 4523 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a psychiatric technician is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked or may decline to issue a license, when the time for appeal has lapsed, or the judgment or conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

1 **COST RECOVERY**

2 7. Code section 125.3 provides, in pertinent part, that a Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Criminal Convictions)**

8 8. Respondent is subject to disciplinary action pursuant to Code section 4521,
9 subdivision (f), in that Respondent has been convicted of the following crimes that are
10 substantially related to the qualifications, functions, and duties of a licensed psychiatric
11 technician:

12 a. On or about July 12, 2007, in the Superior Court, County of Sacramento, California,
13 in the matter entitled *People vs. Sherry Lynn James*, 2007, Case No. 07M05682, Respondent was
14 convicted by the court following her plea of nolo contendere to a violation of Vehicle Code
15 section 23152, subdivision (a) (driving under the influence of alcohol or drugs), a misdemeanor
16 and Health and Safety Code section 11550, subdivision (a) (under the influence of a controlled
17 substance), a misdemeanor. The circumstances of the crime are that on or about May 5, 2007,
18 Respondent was arrested by the California Highway Patrol following a tip from a citizen, who
19 observed Respondent driving erratically, almost hitting two parked vehicles and a telephone pole.
20 Respondent was subsequently stopped and arrested for driving under the influence of a drug.

21 b. On or about July 12, 2007, in the Superior Court, County of Sacramento, California,
22 in the matter entitled *People vs. Sherry Lynn James*, 2007, Case No. 07M04244, Respondent was
23 convicted by the court following her plea of nolo contendere to a violation of Vehicle Code
24 section 23152, subdivision (a) (driving under the influence of alcohol or drugs), a misdemeanor
25 and Health and Safety Code section 11550, subdivision (a) (under the influence of a controlled
26 substance), a misdemeanor. The circumstances of the crime are that on or about March 18, 2007,
27 Respondent was stopped by a California Highway Patrol officer following his observation of
28 Respondent's driving. She was driving at a very slow rate of speed and was weaving in and out

1 of her lane. Respondent was subsequently arrested for driving under the influence of a CNS
2 depressant and a CNS stimulant.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Criminal Convictions Involving Dangerous Drugs)**

5 9. Respondent is subject to disciplinary action pursuant to Code section 4521,
6 subdivision (a)(6), on the grounds of unprofessional conduct, in that Respondent has been
7 convicted of crimes involving the consumption of a drug(s), as more particularly set forth in
8 paragraph 8, subparagraphs a, and b, above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Use Drugs to an Extent or in a Manner Dangerous or Injurious to Herself)**

11 10. Respondent is subject to disciplinary action pursuant to Code section 4521,
12 subdivision (a)(5), on the grounds of unprofessional conduct, in that on or about March 18, 2007,
13 and May 5, 2007, Respondent used drugs to an extent or in a manner dangerous or injurious to
14 herself, as more particularly set forth in paragraph 8, subparagraphs a and b, above.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
18 issue a decision:

19 1. Revoking or suspending Psychiatric Technician License Number PT 26126, issued to
20 Sherry Lynn James;

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1 2. Ordering Sherry Lynn James to pay the Board of Vocational Nursing and Psychiatric
2 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to
3 Business and Professions Code section 125.3; and,

4 3. Taking such other and further action as deemed necessary and proper.

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7 DATED: April 7, 2011



TERESA BELLO-JONES, J.D., M.S.N., R.N.

Executive Officer

Board of Vocational Nursing and Psychiatric Technicians

Department of Consumer Affairs

State of California

Complainant